

[Unapproved and Subject to Change]  
**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION**  
**MINUTES OF MEETING, Public Session**

**February 19, 2009**

**Call To Order:** Chairman Ross Johnson called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Timothy A. Hodson, Gene Huguenin, Bob Leidigh and Ray Remy were present.

1. **Public Comment.** This portion of the meeting is reserved for comments on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

There were none.

**CONSENT CALENDAR - ITEMS 2 THROUGH 17**

Chairman Johnson asked if any Commissioners wanted any items removed from the consent calendar.

Commissioner Huguenin responded that he didn't want any items removed, but he had questions regarding Items 5 – 13 about the calculations of the proposed penalties, and that he would defer the question until the Executive Director Report.

The Chairman asked if there were any comments from the audience regarding the consent calendar. There were none.

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve all items on the consent calendar.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.  
The motion passed 5-0.

2. **Approval of January 15, 2009, and January 28, 2009, Commission meeting minutes.**
3. **In the Matter of Committee for Yes on Measure F and Preston H. Wisner, FPPC No. 02/012. (1 count) Total Monetary Penalty: \$750**
4. **In the Matter of Michael J. Malik Sr., Michael J. Malik, Sr. Trust, and MJM Manistee, Inc., FPPC No. 07/195. (1 count) Total Monetary Penalty: \$4,000**
5. **In the Matter of John Maltbie, FPPC No. 06/1029. (1 count) Total Monetary Penalty: \$1,535**

6. **In the Matter of David Finigan, FPPC No. 06/1032. (1 count)**  
**Total Monetary Penalty: \$610**
7. **In the Matter of Lynne Ashbeck, FPPC No. 06/1046. (1 count)**  
**Total Monetary Penalty: \$310**
8. **In the Matter of Carlos Alan Autry, FPPC No. 06/1048. (1 count)**  
**Total Monetary Penalty: \$654**
9. **In the Matter of Robert Owen, FPPC No. 06/1059. (1 count)**  
**Total Monetary Penalty: \$380**
10. **In the Matter of Kevin Romick, FPPC No. 06/1061. (1 count)**  
**Total Monetary Penalty: \$390**
11. **In the Matter of Sergio Sahagun, FPPC No. 06/1062. (1 count)**  
**Total Monetary Penalty: \$350**
12. **In the Matter of Richard Torres, FPPC No. 06/1066. (1 count)**  
**Total Monetary Penalty: \$426**
13. **In the Matter of Marilynn Poe, FPPC No. 06/1079. (1 count)**  
**Total Monetary Penalty: \$300**
14. **In the Matter of California Speedway dba Auto Club Speedway, FPPC No. 08/642. (1 count) Total Monetary Penalty: \$400**
15. **In the Matter of Henry Duro, FPPC No. 08/330. (1 count)**  
**Total Monetary Penalty: \$200**
16. **In the Matter of Vince Duro, FPPC No. 08/331. (1 count)**  
**Total Monetary Penalty: \$200**
17. **In the Matter of Scott Davis, FPPC No. 08/718. (1 count)**  
**Total Monetary Penalty: \$200**

#### **GENERAL ITEMS 18 THROUGH 22**

18. **Adoption of Amendments to Regulation 18704 - Determining Whether an Economic Interest Is Directly or Indirectly Involved In a Governmental Decision.**  
Staff: Commission Counsel Sukhi K. Brar and General Counsel Scott Hallabrin. Staff proposed adoption of amendments to Regulation 18704. Regulations 18700 et seq. set forth what is known as the “eight-step process” for determining when a public official has a conflict of interest based upon a financial interest. “Step 4” involves a determination as to whether or not a public official’s economic interest is directly or indirectly involved in a governmental decision. Determining whether the economic interest is directly or indirectly involved in a governmental decision also determines the appropriate analysis to apply on

the question of whether the official has a conflict of interest. The proposed amendment will clarify longstanding interpretation of this regulation that when an official's economic interest is not directly involved in a governmental decision, it is deemed to be indirectly involved.

The Chairman asked if anyone in the audience had comments regarding this item. There were none.

Moved by Commissioner Leidigh and seconded by Commissioner Remy to adopt the amendments to Regulation 18704 as proposed by staff.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 5-0.

**19. Adoption of Regulation 18215.3 and Approval of Form 803 - Behested Payment Reports.** Staff: Commission Counsel Heather M. Rowan and General Counsel Scott Hallabrin. Section 82015(b)(2)(B)(iii) generally requires an elected officer and a member of the Public Utility Commission to file a public report with his or her agency within 30 days after any person, at the public official's behest, makes a payment for a legislative, governmental or charitable purpose of \$5,000 or more. Staff proposes adoption of Regulation 18215.3 to create a uniform method for public officials to report these behested payments. Additionally, staff proposes approval of Form 803 in conjunction with this regulation.

Chairman Johnson asked if the Commissioners had any questions or comments regarding this proposal. Commissioner Leidigh advised he didn't think he needed to recuse himself from participating in the discussion or voting on this item but wanted to make sure the Commission agreed. The Chairman advised there was no problem with Commissioner Leidigh participating.

Scott Hallabrin, General Counsel, recused himself from the portion of the discussion concerning an issue raised by a comment letter from the Attorney General's Office due to his position with the FPPC and his previous involvement on this subject while employed at the Attorney General's Office. John Wallace, Assistant General Counsel, was available for any legal questions from the Commission or audience on this matter.

The Chairman asked if anyone in the audience had comments in favor or in opposition to this item. Rebecca Olson, with Olson Hagel & Fishburn, representing the Senate Rules Committee, had some comments and concerns with the proposed regulation and the Form 803.

Moved by Commissioner Leidigh and seconded by Commissioner Hodson for this item to be held over to a future meeting. Staff was directed to notify all the elected state and local officials and those in grant programs with inter-agency involvement about what the existing law is currently and what the proposed regulation and Form 803 would require, and to review whatever input comes back on the impact this regulation would have them and on the governmental entities. It was approved by unanimous consent that this item be held over and heard at a future Commission meeting.

**20. Legislative Report.** Staff: Legislative Coordinator Tara Stock.

Ms. Stock advised the Commission there were no changes in legislation since the last Commission meeting, and there were only the two bills that had been introduced that would affect the Political Reform Act. Commissioner Leidigh asked if there was a major donor bill yet, and Ms. Stock replied we were still waiting to hear back from potential authors regarding that bill.

**21. Litigation Report.** Staff: General Counsel Scott Hallabrin. As submitted.

**22. Executive Director's Report.** Executive Director Roman Porter. As submitted.

Mr. Porter addressed Commissioner Huguenin's questions regarding the fines imposed in Items 5 through 13 and advised that the FPPC had put together a "rubric" for gifts that have been received over the limit. He agreed that providing transparency was important and said he would be happy to discuss this matter with the Commission at a later time to get some direction and, if it was the Commission's wish to come forward with details on how the full amount was calculated, he would do that but was not prepared to at present. Commissioner Huguenin expressed that he thought a schedule of fines should be attached to the gift violation settlements to show how the fines were calculated, like the schedules attached to the other kinds of settlements. Mr. Porter advised he would work on accommodating the Commissioner's request.

There was no closed session, and with no further business coming before the Commission, Chairman Johnson adjourned the meeting at 11:00 a.m.

Dated: February 24, 2009

Respectfully submitted,

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Beth Manwaring  
Commission Assistant

Approved: \_\_\_\_\_  
Ross Johnson  
Chairman